

REMARKS

This Amendment is filed in response to the non-final Office Action of June 4, 2004. The Applicants thank the Examiner for her careful review of the present application and the telephone interview with the undersigned.

Claims 1-13 are pending after entry of the present Amendment. Claims 14-21 are cancelled in response to the Examiner's restriction requirement; however, the Applicants reserve the right file a divisional application for the cancelled claims 14-21.

Objection to the Drawings:

The Examiner objected to the drawings for failing to comply with 37 C.F.R. § 1.84(p)(5) because, first, the drawings do not include the reference signs mentioned in the description, and, second, the drawings include reference signs not mentioned in the description. In addition, the Examiner objected to the drawings under 37 C.F.R. § 1.84(a), because they fail to show operations as described in the specification.

In response to the Examiner's first objection, the specification has been amended to correct the typographical errors associated with the references to the signs on the drawings. Figure 20 is amended to correct typographical errors of the signs on the drawing, so that the signs on the drawing correspond to the references in the description. In response to the Examiner's second objection, the specification has been amended to correct the typographical errors associated with the references to the signs on the drawings. However, no correction is made for Fig. 15, because Figure 15 is referenced and described in the originally filed specification on page 30, line 13. In response to the Examiner's last objection, the specification is amended to correct inadvertent errors in preparing the description of the operations shown on the drawings.

Accordingly, the Applicants respectfully request the Examiner to withdraw the objections to the drawings.

Objection to the Specification:

The Examiner objected to the informalities in the disclosure including: cross-references to related applications that do not contain application numbers; an incomplete sentence; inconsistencies between the description and the drawing in Figure 19, and misspelling of the word "policies".

The informalities in the disclosure are now corrected with the amended specification in the present Amendment. Accordingly, the Applicants respectfully request the Examiner to withdraw the objections to the specification.

Restriction under 35 U.S.C. § 121:

Applicants acknowledge the Examiner's restriction requirement for Group I, claims 1-13, and Group II, claims 14-21. Applicants provisionally elect without traverse to prosecute the invention of Group I, claims 1-13. Accordingly, claims 14-21 are now cancelled, and claims 1-13 are pending after entry of the present Amendment. However, Applicants reserve the right to file a divisional application for the cancelled claims 14-21.

Rejections under 35 U.S.C. § 101

Applicants acknowledge Examiner's provisional rejection of claims 1-13 under the judicially created doctrine of obviousness-type doubt patenting as being unpatentable over claims 8-13 of co-pending application, Application No. 09/846,067. A terminal disclaimer will be filed upon allowance of the pending claims 1-13 in the present application.

Rejections under 35 U.S.C. § 102(b):

Claims 1-13 are rejected under 35 U.S.C. § 102(b), as being anticipated by Ma et al. (U.S. Patent 5,920,725), hereinafter Ma et al. For the reason put forth below, Applicants respectfully assert that Ma et al. fails to disclose each and every feature recited in the amended independent claims 1 and 8.

One embodiment of the present invention as recited in amended independent claim 1 is a method for performing an online upgrade to a JAVA application without any detectable impact on a remote client that is in communication with the application. Page 4, line 19-21. The present invention performs online upgrades in a middle-tier. Page 2, line 15-18. The method as recited in amended claim 1 generates an upgraded control module and creates an upgraded service module in the middle-tier. In contrast, Ma et al. discloses a system for updating objects in remote clients. Col. 4, line 36-38, Figure 5 and Figure 6. Remote clients are not in the middle-tier. Moreover, the updating system disclosed in Ma et al. contradicts with the method of amended claim 1, because in Ma et al., to update the objects 72 as described in Figures 5 and 6 requires going beyond the middle-tier, and the method as recited in amended claim 1 does not go beyond the middle-tier. The teachings of Ma et al. achieve an opposite result to that of amended claim 1, and one of ordinary skill would not be motivated to modify Ma et al. to achieve a contradictory result. Accordingly, amended independent claim 1 is not anticipated by Ma et al., and it would not be obvious for one of ordinary skill in the art to modify Ma et al. Therefore, the present invention as recited in amended independent claim 1 is patentable over Ma et al. Similarly, dependent claims 4, 5, 6, and 7, which draw their dependencies from independent claim 1, are patentable for substantially the same reason as discussed for amended independent claim 1, and for the additional limitations in which each dependent claim respectively recite.

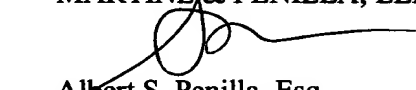
Moreover, the currently amended independent claim 8 is not anticipated by Ma et al. for substantially the same reasons as provided for amended independent claim 1. Therefore,

the amended independent claim 8 is also patentable over Ma et al. Furthermore, dependent claims 10, 11, 12, and 13, which draw their dependencies from independent claim 8, are similarly patentable for substantially the same reason as provided for amended independent claim 8, and for the additional limitations in which each dependent claim respectively recite.

Accordingly, after entry of the present Amendment, the application is now in a condition for allowance. A Notice of Allowance is therefore respectfully requested.

If the Examiner has any questions concerning the present Amendment, the Examiner is kindly requested to contact the undersigned at (408) 749-6903. If any other fees are due in connection with filing this Amendment, the Commissioner is also authorized to charge Deposit Account No. 50-0805 (Order No. SUNMP003). A duplicate copy of the transmittal is enclosed for this purpose.

Respectfully submitted,
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